

IDAHO BOARD OF CHIROPRACTIC PHYSICIANS
Bureau of Occupational Licenses
700 West State Street, P.O. Box 83720
Boise, ID 83720-0063

Board Meeting Minutes of 5/25/2018

BOARD MEMBERS PRESENT: Herbert W Oliver, D.C. - Chair
Charles H Coiner
Shannon Gaertner-Ewing, D.C.

BOARD MEMBERS ABSENT: Lynn A Hansen, D.C.
Kathleen J McKay, D.C.

BUREAU STAFF: Tana Cory, Bureau Chief
Dawn Hall, Deputy Bureau Chief
Julie Eavenson, Admin. Support Manager
Lori Peel, Investigative Unit Manager
Joan Callahan, Legal Counsel
Roger Hales, Naylor & Hales
Debbie Toncray, Technical Records Specialist II

OTHERS PRESENT: Caroline Merritt, Idaho Association of
Chiropractic Physicians

The meeting was called to order at 9:00 AM MDT by Herbert W Oliver, D.C.

APPROVAL OF MINUTES

Dr. Gaertner-Ewing made a motion to revise the minutes of 2/2/2018 with a change on the last page under "Clinical Nutrition Education Program Offered by Dr. Hicks" to clarify that the Board tabled this discussion upon legal counsel's advice until the next meeting since the rules had not passed the Legislature, and to approve the minutes with the revision. It was seconded by Mr. Coiner. Motion carried.

Dr. Gaertner-Ewing made a motion to approve the minutes of 4/20/2018. It was seconded by Mr. Coiner. Motion carried.

LEGISLATIVE REPORT

Ms. Cory said that an interim committee has been established to study occupational licensing. The Occupational Licensing and Certification Law Interim Committee will meet over the summer.

The deadline to submit proposed legislative ideas to the Governor's Office is July 17, 2018 and the deadline to submit proposed law and rule changes to the Governor's Office is August 17, 2018 for the 2019 Legislative Session.

FINANCIAL REPORT

Ms. Hall gave the financial report, which indicated that the Board had a cash balance of (\$95,404.03) as of 4/30/2018.

INVESTIGATIVE REPORT

Ms. Peel gave the investigative report, which is linked above.

OLD BUSINESS

The Board reviewed the To Do List and no action was taken.

DRUG ENFORCEMENT AGENCY (DEA) LICENSE ISSUE

Mr. Hales had previously discussed this issue with Mr. Ellsworth who had completed his research on the subject. Mr. Hales said none of the drugs on the list in the statute are controlled substances, so there is no need for any chiropractor with Clinical Nutrition Certification to obtain a DEA license in order to obtain the drugs listed in the statute. Mr. Coiner made a motion to authorize Mr. Hales to draft a general letter of response stating that the law and rules specifically list the limited formulary, and that those chiropractors with Clinical Nutrition Certification can obtain the drugs listed. The motion also included authorizing the Chair to review and sign the letter, and authorizing the Bureau to send to interested parties. It was seconded by Dr. Gaertner-Ewing. Motion carried.

EXECUTIVE ORDER

The Board reviewed the draft of the Executive Order response. Dr. Gaertner-Ewing made a motion to approve the draft pending final edits and approval by the Chair. Once approved, the final version will be submitted to the Lt. Governor's Office. It was seconded by Mr. Coiner. Motion carried.

The Board discussed Rule 600, Chiropractic Peer Review. Dr. Gaertner-Ewing made a motion to authorize the Chair to work with Bureau staff to submit a legislative idea for the 2019 session to remove peer review in the statute (see Idaho Code §§ 54-707 and 54-715). It was seconded by Mr. Coiner. Motion carried.

NEW BUSINESS

CORRESPONDENCE

LETTER FROM DR. HARPER AND RESPONSES

The Board reviewed the letter of complaint about Dr. Gaertner-Ewing, which was also sent to the Office of the Governor, the Attorney General, the National Board of Chiropractic Examiners (NBCE), and the Federation of Chiropractic Licensing Boards (FCLB). The Board agreed that the Chair would work with Mr. Hales to draft a response letter commending the actions taken by Dr. Gaertner-Ewing and the fact she has been working with the Legislature and the Idaho Association of Chiropractic Physicians to help pass the law and rules regarding Clinical Nutrition Certification. The Board agreed that Dr. Harper's letter was erroneous and carried no merit. Ms. Cory reviewed other letters received from different chiropractors. She said one of the chiropractors withdrew his letter because he realized he made erroneous accusations in his first letter. Mr. Coiner made a motion to authorize the Bureau to contact the Office of the Governor and let them know the Board will be responding; to inform the Governor and the Attorney General that the accusations against Dr. Gaertner-Ewing are unfounded; to authorize the Chair to contact the NBCE and the FCLB regarding the unfounded accusations; and to authorize the Bureau to assist the Chair in writing the letter of response and send it to these parties. It was seconded by Dr. Gaertner-Ewing. She said she would appreciate the letter from the Board being sent as soon as possible since she would be attending a NBCE Part IV testing committee meeting within the next few days. Dr. Gaertner-Ewing wanted NBCE to know that the Board would be taking action on the erroneous accusations which were stated in the letter and that a letter from the Board would be sent in the near future. Motion carried.

LETTER FROM NBCE REGARDING COMPUTER-BASED TESTING

The Board reviewed the letter regarding the fact that NBCE will be moving to computer-based testing in 2019, and no action was taken.

LETTER FROM JOSHUA TUCKETT REGARDING USE OF LASERS

The Board reviewed the letter which asked if a podiatrist could serve as an on-site medical director in an administrative-only position within a clinic which uses non-invasive and non-ablative lasers. The Board agreed that the letter was more related to the practice of podiatry than chiropractic physicians who are allowed to use specific lasers. The Board asked that the letter be referred to the Board of Podiatry.

LETTER FROM COUNCIL ON CHIROPRACTIC EDUCATION (CCE) – PUBLIC DISCLOSURE NOTICE

The Board reviewed the letter and no action was taken.

EXECUTIVE SESSION

Mr. Coiner made a motion that the Board go into executive session under Idaho Code § 74-206(1)(d) to consider records that are exempt from disclosure under the Idaho Public Records Law. The purpose of the executive session was to consider license application materials. It was seconded by Dr. Gaertner-Ewing. The vote was: Dr. Oliver, aye; Dr. Gaertner-Ewing, aye; and Mr. Coiner, aye. Motion carried.

Mr. Coiner made a motion to come out of executive session. It was seconded by Dr. Gaertner-Ewing. The vote was: Dr. Oliver, aye; Dr. Gaertner-Ewing, aye; and Mr. Coiner, aye. Motion carried.

APPLICATIONS

Dr. Gaertner-Ewing made a motion to have the following complete the Special Purposes Exam for Chiropractic (SPEC), submit the results, and be approved for licensure with a passing score:

Applicant ID 901031482

It was seconded by Mr. Coiner. Motion carried.

Mr. Coiner made a motion to approve the following for licensure:

Applicant ID 901078893

There was no second for the motion. Dr. Gaertner-Ewing recused herself from discussion and voting. Motion died.

EXECUTIVE SESSION

Dr. Gaertner-Ewing made a motion that the Board go into executive session under Idaho Code § 74-206(1)(d) to consider records that are exempt from disclosure under the Idaho Public Records Law. The purpose of the executive session was to consider license application materials. It was seconded by Mr. Coiner. The vote was: Dr. Oliver, aye; Dr. Gaertner-Ewing, aye; and Mr. Coiner, aye. Motion carried.

Mr. Coiner made a motion to come out of executive session. It was seconded by Dr. Gaertner-Ewing. The vote was: Dr. Oliver, aye; Dr. Gaertner-Ewing, aye; and Mr. Coiner, aye. Motion carried.

APPLICATIONS

Mr. Coiner made a motion to approve the following for Clinical Nutrition Certification:

DCA-1853 Dennis Harper

It was seconded by Dr. Gaertner-Ewing. The Board discussed the application in light of the allegations submitted by Dr. Harper regarding Dr. Gaertner-Ewing and

the Board. Dr. Gaertner-Ewing said her first response was to abstain from voting on this certification. However, in an effort to avoid delaying an applicant, she seconded the motion. Motion carried.

CE COURSES

The Board reviewed and approved the following CE course:

BACK TO CHIROPRACTIC Back to Chiropractic

NEXT MEETING was scheduled for August 3, 2018 at 9:00 AM MDT.

ADJOURNMENT

Mr. Coiner made a motion to adjourn the meeting at 12:26 PM MDT. It was seconded by Dr. Gaertner-Ewing. Motion carried.

Herbert W Oliver, D.C., Chair

Charles H Coiner

Lynn A Hansen, D.C.

Kathleen J McKay, D.C.

Shannon Gaertner-Ewing, D.C.

Tana Cory, Bureau Chief